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HUMAN RIGHTS TRAINING FOR PUBLIC OFFICIALS

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INTRODUCTION

The role of human rights organisation has tended to be primarily reactive. Where human rights violations have occurred human rights organisations have responded by documenting and publicising the abuses, seeking redress for the victims and demanding that appropriate sanctions be taken against the perpetrators. Whilst these activities remain vitally important, especially in situations where there are widespread, deliberate violations of human rights, there are further possible roles for human rights organisations of a more proactive nature. One such role is in the field of human rights education. This could include disseminating information to the public about their rights, how to assert these rights and what remedies they have when their rights are infringed. It could also extend to involvement in the area of human rights training for public officials. By public officials we mean officials employed by the state. They include such officials as police officers and members of other law enforcement agencies such as intelligence agencies, prison officers, army officers, and public servants in various government offices carrying administrative duties. The reason why it is important to focus on public officials is the most serious abuses and of human rights of individuals and groups in our societies are perpetrated by such officials, especially by army personnel and members of law enforcement agencies. Human rights training for public officials could result in the reduction in the numbers of abuses of rights by such officials.

In my presentation I will look at:

- the relationship between human rights training programmes and the human rights environment in a country;
- the importance of ensuring observance of human rights by public officials;
- the objectives and content of human rights training programmes for various categories of public officials;
- the likely impact of such programmes.

THE HUMAN RIGHTS ENVIRONMENT

The conditions prevailing in the country in question will have a vital bearing on the scope for effective human rights training. An environment of relative peace and stability is obviously very much more conducive to the holding of such programmes unlike situations where there is widespread conflict, disorder or unrest. Often human rights training of public officials will be embarked upon in the aftermath of significant social and political changes. For example where a new democratic order has replaced a repressive regime or where peace and stability has been restored after a period of conflict. If a new democratic government decides to retain in post some of the public officials who served the old repressive regime, the new government will be likely to see the retraining and re-orientation of those officials as being imperative. Where peace returns after a period of conflict, public officials who become used to using extreme powers will need to be trained about the nature of their powers in peace-time. For instance in Zimbabwe when the state of emergency ended in 1990, the police force requested that a human rights lawyer give some lectures to police officers on the role of the police force in a non-emergency situation. The Legal

Resources Foundation of Zimbabwe was then asked to mount seminars about the proper role and normal functions of the police and the need for observance of human rights when exercising their powers. Thus started a regular programme of seminars and workshops organised by the Legal Resources Foundation which was assigned to conduct this programme which became known as the Law enforcement Agencies Programme. A Manual produced for use in connection with this programme (there is a copy of this Manual on display). To start off with this programme was also conducted for members of the Central Intelligence Organisation (CIO). However, when the CIO came under fire from the human rights bodies, the CIO pulled out of the programme, stating that they had people within Government who were perfectly capable of doing this training and there was no need to involve NGOs. More recently the Legal Resources Foundation was asked to run a training programme for prison training officers.

Human rights training programmes are obviously a non-starter in countries where the government authorises or approves the perpetration of systematic and serious abuses of human rights by its public officials. But human rights training can be vigorously pursued where a government genuinely wants to improve the human rights situation. Human rights training can also be introduced where the government is being pressurised by the international community into making improvements in its human rights performance or a government agency has decided that it has to clean up its act because of the financial losses it is incurring as a result of people suing it for damages for breaches of human rights. In Zimbabwe the major reason for the police requesting the Legal Resources Foundation to conduct a human rights programme for its officers was not so much a deep concern about the protection of human rights, but more a growing apprehension about the cost of numerous actions for unlawful arrest that were being brought after the state of emergency ended. Recently the Minister of Home Affairs went so far as to threaten to deduct from police officers' salaries money towards meeting the costs of compensating unlawfully arrested civilians who were suing the police very frequently. The Minister said that the Government is having to pay out one and a half million dollars a year in claims for unlawful arrest.

WHY PUBLIC OFFICIALS ENGAGE IN HUMAN RIGHTS ABUSES

It is important to realise that human rights abuses may often be the result of poor training of public officials which in turn results in ignorance or lack of proper understanding of their role and functions and the limits upon the use of their powers. Carefully composed, well conducted and properly targeted human rights training programmes can thus correct some of this misunderstanding and thereby help reduce human rights abuses. Even where the violations are the result of deliberate abuse of powers, human rights training can sometimes re-enforce the unacceptability of such abuses. If stress is laid on the damage such misconduct does to the image of the particular public service and the positive benefits deriving from observance of human rights this can lead to superiors and fellow officers exerting strong pressures upon persons within the service to refrain from such misconduct.

Human rights training courses for public officials need to be based on an understanding of the nature of the problems which confront public officials in their day-to-day work. We must take into account the constraints and difficulties under which the public officials are operating in their day-to-day work. Factors such as:

- staffing shortages
- lack of adequate equipment
- poor pay and general conditions of service

may all be contributory factors in the commission of human rights abuses and such factors need to be talked about. For instance, if a prison is overcrowded and unsanitary, prison staff as well as prisoners experience these conditions and this may result in abuses.

Courses on human rights must obviously have a practical bias. What are needed are practical exercises aimed at devising better ways of implementing the human rights instruments in their very specific local conditions. For example, it would be totally counterproductive to conduct a training course for prison officers that is based upon a model prison where there are ideal conditions when the prison in which the officers are working are under-funded, grossly overcrowded and there are totally inadequate numbers of prison officers.

The trainers need also to be aware of the fact that public officials such as police, prison officers, and prison staff often have a strong sense of group identity, loyalty and exclusiveness. This culture arises out of the fact that in the uniformed services the officers are engaged in work that gives power over others and carries a level of personal risk. Officers who have to deal with brutal people tend to develop violent tendencies. Fellow officers will often condone the use of such violence even where it is not used for self-protection but is simply of a sadistic nature. Officers may also believe that their harsh treatment of people under their control reflects public opinion as to how such people should be treated. A culture of solidarity will make it difficult to root out human rights abuses because officers witnessing human rights abuses by fellow officers will be disinclined to report human rights abuses perpetrated by fellow officers and will help to protect the perpetrators by denying that such abuses have occurred.

However, whilst understanding the work problems and the legitimate fears of public officers, trainers must still make it quite clear that such factors cannot be excuses for human rights abuses. The obligation to comply with law, and accepted human rights and humanitarian standards must be clearly and unequivocally asserted. After the public officials have related the problems that they face, they should be engaged in discussion on ways of overcoming the constraints and ensuring that human rights abuses can be avoided.

WILL RESPECT FOR HUMAN RIGHTS UNDERMINE EFFECTIVENESS?

When dealing with agencies such as the army, police and prisons the question that is constantly raised and needs to be carefully addressed is whether observance of human rights may render them incapable of efficient performance of their duties.

For instance the police need to be persuaded that observance of human rights is not incompatible with effective law enforcement. It needs to be demonstrated that professional policing with due regard to human rights ensures that proper evidence is gathered to prove guilt in court whereas illegal methods of gathering evidence are highly unreliable and that where these are used to obtain convictions of innocent persons the public will lose faith in the criminal justice system. They also need to be shown that the efficient performance of police work depends upon obtaining the co-operation of the public. If the police do not respect the rights of the public then the public will be hostile towards the police and will be unwilling to assist them. If the police break the rules which are there to ensure that the legitimate rights of the public are not infringed, the public will have disrespect for the law and the enforcers of the law. If, on the other hand, law enforcers carry out their work properly without breaking the rules, the public will have confidence in them. The message must be transmitted that the police are there to serve the community and must respect the human rights of the community.

Another example can be taken from the context of the prisons. Prison officers need to be disabused of the idea that respecting the basic rights of prisoners will end up destroying

discipline. Prison authorities can still maintain proper discipline within prisons without violating basic rights of prisoners. Prison authorities are quite entitled, and indeed are obliged, to take all necessary measures that are required to preserve internal order and discipline and to maintain institutional security. Part of the process of rehabilitation is to inculcate into prisoners the need to behave with more restraint and discipline in their lives and to respect the rights of others. A disciplined and ordered prison regime helps to teach prisoners to behave in a more disciplined fashion. Applying discipline does not, however, allow the use of cruel and inhuman treatment and the imposition of unnecessary restrictions. Good human rights practices thus help strengthen prison management and result in more satisfactory work for prison staff. If conditions for prisoners are not degrading and oppressive, conditions for staff are also better. If prisons are to be constructive places of rehabilitation, prison staff have more interesting work to do. If prisoners are able to seek proper redress for their grievances, prison staff are less likely to be assaulted or take the brunt of prisoners' anger and frustration.

GOVERNMENT OF SEPARATE PROGRAMMES

There are various ways in which non-governmental organisations can participate in human rights training for public officials. One is to participate in training courses mounted within the particular public service. Another is for non-governmental organisations to conduct their own training programmes for members of that service. It is far more likely that the particular service will invite non-governmental organisations to assist in training programmes mounted by that service. When participating in an in-house training programme trainers must find out about the rest of the training programme and to try to ensure that other trainers from within the service are not imparting information and values at variance with those being propagated by the non-governmental organisations. The advantage of separate programmes run entirely by the non-governmental organisation is that the content of the programme can be carefully planned so that it is systematic and consistent. Even in such separate courses, members of the public service are likely to be asked to participate. Another way in which a non-governmental organisation can be asked to contribute is to compile or assist in compiling training manuals for use within the service. Professionally produced manuals can be a valuable resource as they can be used on an ongoing basis in training.

Benefits Derived from Involving Human Rights Organisations in such Programmes

Public officials often believe that human rights organisations are out to undermine the authorities when they criticise public officials for human rights abuses. The dialogue that occurs between public officials and human rights organisations during such programmes can produce better understanding and alleviate suspicions and hostilities. The public officials appreciate better the basis upon which the criticisms have been made and where criticisms are shown to have been misdirected or based upon inadequate facts, the human rights organisations will know better in the future. Dialogue can also be constructive in that it can produce important suggestions mechanisms for avoiding human rights abuses in the future.

Level of Officers on Courses

A training programme has to be seen to be relevant to everyone in the service. Obviously the nature of the training programme will need to be geared towards the level of seniority

of the officers who are being trained. Training programmes for senior officers will be radically different from courses for new recruits.

- New recruits need basic information on their role and functions, the proper exercise of their powers and what forms of conduct constitute impermissible human rights abuses.
- Middle ranking officers who are in charge of operations require programmes that are geared towards the grounded realities of such officers and which emphasise the responsibility of such officers to monitor and supervise the conduct of their subordinates to make sure that they do not violate human rights.
- Top-ranking officials need to be engaged in debate about policy formulation and on the devising of strategies for avoidance of human rights abuses.

A training programme will only be successful if it has to be supported from the very top of an hierarchically organised administration. Courses for lower level staff need to be seen to carry the enthusiastic support of the top of the administration.

The Programme

In light of what has been said above the typical training programme for public officials would have these sort of components:

- public officials will be asked about their own understanding about human rights and the relevance of human rights to their work
- the relevant aspects of domestic law contained in the constitutional guarantees and in other laws will be introduced together with the relevant portions of the international human rights treaties
- public officials will then be asked to identify the sorts of human rights abuses that can be committed by officers in that particular public service and the harmful effects of such abuses
- public officials will also be asked to analyse the reasons why such abuses take place taking into account local conditions
- finally public officials will be asked to devise strategies and mechanisms to ensure that human rights abuses are minimised.

Impact of a Training Programme

The effectiveness of training programmes will depend upon a number of factors. These include:

- the quality of the training programmes.
- the regularity with which the programmes are conducted.
- whether the programmes reach all levels of personnel within the service.
- whether government and senior officials in a particular service are committed to stamping out human rights abuses and the extent to which they re-inforce or undermine the values imparted in such courses.

Human rights organisations will only participate in such programmes if they are reasonably assured that they will produce some positive end results. They will obviously refuse to take part if the programmes are simply an exercise in window dressing and are not seriously intended to change behavioural patterns.

Police

The emphasis in police training on respect for the rights of the people helps to develop the values necessary for the operation of an apolitical, professional force that understands its proper role in a democratic society and respects human rights and exercises responsibility with restraint.

The main duty of the police is to enforce the laws of the nation. The police are expected to protect the public by trying to prevent crime and bringing to justice those who have committed crimes. Crime is socially deleterious and society expects the police vigorously and effectively to combat crime; society expects police officers to perform their duties competently, diligently and efficiently. In pursuing this duty the police force must respect the human rights of both members of the public and criminal suspects. When they do not do so the interests of justice suffer and the police force is brought into disrepute. Senior officers in charge of police operations need to take strong measures to ensure that human rights are not abused during the course of operations. Stringent disciplinary measures need to be taken against senior officers who actually order or encourage their subordinates to behave in a fashion that is abusive of human rights.

It is vitally important that law enforcement officers are fully conversant with what powers they possess, what procedures they are required to follow when exercising these powers, in what ways these powers are limited and why they are so limited. It is also important that they know about the fundamental rights of persons set out in the Constitution.

It must be pointed out that in order to protect the delicate relationship between the police and the people, a series of rules have been established which seek to ensure that the police are given enough powers that they can pursue criminals but at the same time the rights of the people will not be interfered with by police as they go about their work to fight crime.

Taking Short Cuts

According to Zimbabwean principles of justice, an alleged criminal is considered innocent until he can be proven guilty. It is the responsibility of the state to convince the court that the accused has indeed committed the crime. The police must gather sufficient evidence to allow the state to prove the guilt of the accused beyond reasonable doubt. If they fail to gather this evidence then criminals will evade conviction. The duty of the police is to discover the truth. The investigations into criminal activities must be fairly and objectively carried out. The police must obviously try to apprehend as many guilty persons as possible so that they can be duly punished. The public is rightly concerned about criminal activities, especially serious crimes. The police operate under substantial public pressure to apprehend criminal culprits. Investigating officers are also under pressure from their superiors to produce positive results, and police officers know that a good success rate will help when it comes to promotion. In this sort of environment there is a temptation for police officers to take short cuts. It is particularly lazy and incompetent police officers who may succumb to this temptation.

In their enthusiasm to achieve good results, the police must never engage in actions which will be likely to lead to wrongful punishment of persons for crimes they did not commit. The public will lose confidence in the criminal justice system if large numbers of guilty persons escape justice. But the public will also lose faith in the criminal justice system if the police resort to illegal methods of obtaining evidence which may result in the conviction of innocent persons. If a police officers suspects that a person has committed a crime, he

must investigate carefully to try to find sufficient evidence to prove the guilt of a person in court. If, however, such evidence cannot be found the police officer must never be tempted to manufacture evidence against the accused. The police officer must also not be tempted to conceal evidence which he found which tends to exculpate the accused.

Prison Officers

Prison officials have control on a daily basis of the most basic human activities of people who are in prison. They will decide when prisoners may sleep, when and what they may eat, perhaps even when they may perform their bodily functions. They will control access by prisoners to medical facilities, to work, to education. They will decide whether prisoners may have any contact with family and friends, either by visit or by letter. They will control the right of prisoners to observe the requirements of their religion. These are basic human rights which are contained in the Universal Declaration of Human Rights.

Prisoners are a vulnerable group and prisoners are likely to suffer human rights abuses. This is why it is important that national and international norms and policies aimed at the protection of prisoners against abuse be promoted. In general terms the safeguards are there to ensure that prisoners are treated humanely and are respected as persons, no matter how bad the crimes are that they have committed. They must not be treated in an inhuman or degrading way. They are sent to prison as punishment not for punishment. When they are imprisoned they are deprived of their liberty and are taken away from their families and community and are locked up and subject to the prison routines, rules and disciplines. It is not justifiable or acceptable to impose additional suffering other than that inherent in the punishment of incarceration. It is not permissible to subject prisoners to assaults or solitary confinement in dark cells, or to deprive them of food, medical treatment or human contact in order to increase their suffering.

The major thrust of penal policy should be to aim at the rehabilitation of prisoners. The primary aim is to create a prison environment that is constructive rather than destructive, an environment which promotes positive transformation instead of entrenchment of criminal tendencies. This entails allowing prisoners to engage in constructive activities which will help them to live in the outside society without resorting to crime. A constructive prisons regime will be a well ordered regime but a humane regime in which the basic human rights of all prisoners are respected. In such an environment good behaviour will be regarded by such measures as relaxation of restrictions and bad behaviour will be sanctioned.

CONSTRAINTS AND OBSTACLES TO RESPECT FOR HUMAN RIGHTS

As the head of our prison service has said on a number of occasions, efforts to establish a prison service which is humane, enlightened and geared towards rehabilitation are severely undermined when inadequate resources are allocated to our prisons, when prisons are drastically overcrowded and understaffed with prison officers and when conditions of service of prison officers are so poor that prison officers become demoralised and demotivated.

More resources need to be devoted to the prison service in order for them to carry out properly their responsibilities. Budgets for prisons must be sufficient to enable the policy of rehabilitation to be properly pursued. There must also be adequate manpower levels, including manpower with appropriate skills, such as counselling and psychological skills. Personal attention to individual prisoners can only take place if there are reasonable proportions between prison officers and prisoners. The problem of overcrowding in our

prisons needs to be tackled far more vigorously. The use of community service as an alternative to imprisonment is a step in the right direction, but far more needs to be done to keep petty offenders.

Respect for human rights of prisoners is entirely consistent with sound penal policy. It is not only humane to accord prisoners their basic human rights but it is also in line with the programme of rehabilitation. That is not to say that dangerous or difficult prisoners should be mollicoddled and granted all sorts of privileges which they do not deserve. Prisoners should be expected to earn the right to better conditions with less restrictions. It is an essential part of the learning process that bad conduct is disapproved of and sanctioned and good conduct is rewarded. But even badly behaved or dangerous criminals should not be subjected to measures that are unconscionable and unacceptable.

SOME RELEVANT TRAINING MATERIALS

Police and Other Law Enforcement Agencies

Domestic Legislation

- Constitutional provision relating to life, liberty, due process of law, freedom of speech and assembly, prohibition against torture etc.
- Police Act and Criminal Procedure Act
- Judges rules

Human Rights Conventions and Other Documents

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- Code of Conduct for Law Enforcement Officials (adopted by UN General Assembly, 1979)
- Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials (adopted by UN General Assembly, 1989)
- Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment (Adopted by UN General Assembly 1988)
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in 1990)
- UN Convention for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) (adopted by UN General Assembly 1985)
- African Charter on Human and People's Rights

Prisoners

Domestic Legislation

- Constitutional provisions relating to life, liberty, due process of law, prohibition against torture etc.
- Prisoners act and regulations thereunder.
- Standing orders within prisons.

Human Rights Conventions and other Documents

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights

- Detention or imprisonment (Adopted by UN General Assembly 1988)
- Standard Minimum Rules for the Treatment of Prisoners
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in 1990)
- UN Convention for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- UN Convention of the Right of the Child
- African Charter on Human and People's Rights

Army

Domestic Legislation

- Constitutional provisions relating to life, liberty, due process of law, prohibition against torture etc.
- Defence Act and regulations thereunder
- Standing orders within service

International Instruments

- Geneva Convention for the Amelioration of the Conditions of the Wounded and Sick in Armed Forces in the Field (August 12, 1949)
- Geneva Convention for the Amelioration of the Conditions of Wounded, Sick and Shipwrecked Members of Armed Forces (August 12, 1949)
- Geneva Convention relative to the Treatment of Prisoners of War (August 12, 1949)
- Geneva Convention relative to the Protection of Civilian Persons in Time of War (August 12, 1949)
- Protocol Additional to the Geneva Convention of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1) July 1977
- Protection Additional to the Geneva Convention of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol 1) July 1977

Judicial Officers

Domestic Legislation

- Constitution
- Law relating to judicial review and to other remedies for human rights abuses

International Instruments

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Political Rights
- International Labour Organisations Conventions 87 and 98
- African Charter on Human and People's Rights
- International Covenant against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Elimination of All Forms of Discrimination Against Women
- Convention on the rights of the Child

- The United Nations Declaration on the Rights of the Disabled
- Convention Relating to Refugees and the Status of Refugees and the Protocol Relating to the Status of Refugees

Civil Servants***Domestic Legislation***

- Constitutional provisions relating to administrative justice and due process of the law
- Civil Service Act and Regulations thereunder
- Ombuds/Public Protector legislation

Other Documents

- Nolan Committee Principles of Public Life



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